

MINUTES

MONTANA HOUSE OF REPRESENTATIVES 57th LEGISLATURE - REGULAR SESSION COMMITTEE ON EDUCATION

Call to Order: By **VICE CHAIRMAN KATHLEEN GALVIN-HALCRO**, on
February 14, 2001 at 3:00 P.M., in Room 137B Capitol.

ROLL CALL

Members Present:

Rep. Gay Ann Masolo, Chairman (R)
Rep. Kathleen Galvin-Halcro, Vice Chairman (D)
Rep. Joan Andersen (R)
Rep. Norma Bixby (D)
Rep. Gary Branae (D)
Rep. Nancy Fritz (D)
Rep. Verdell Jackson (R)
Rep. Hal Jacobson (D)
Rep. Larry Lehman (R)
Rep. Jeff Mangan (D)
Rep. Joe McKenney (R)
Rep. John Musgrove (D)
Rep. Alan Olson (R)
Rep. Ken Peterson (R)
Rep. Butch Waddill (R)
Rep. Allan Walters (R)
Rep. Merlin Wolery (R)

Members Excused: None

Members Absent: Rep. Bob Lawson, Vice Chairman (R)

Staff Present: Connie Erickson, Legislative Branch
Nina Roatch, Committee Secretary

Please Note: These are summary minutes. Testimony and
discussion are paraphrased and condensed.

Committee Business Summary:

Hearing(s) & Date(s) Posted: SB 182, 2/2/2001; SB 215,
2/2/2001; HB 488, 2/5/2001
Executive Action: HB 483; HB 488; SB 214

HEARING ON HB 488

Sponsor: REPRESENTATIVE MERLIN WOLERY, HD 90, Rudyard

Proponents: Dave Puyear, MREA
Bill Cooper, OPI
Erik Burke, MEA-MFT
Bob Vogel, MSBA

Opponents: None

Opening Statement by Sponsor:

REPRESENTATIVE WOLERY said **HB 488** deals with school consolidation. There is a provision that says if two school districts consolidate, in the case they were high school districts, they would each receive their basic entitlement for three more years. The bill will continue that for three more years, reducing the entitlement over the next three years by 25% each year. It is school funding consolidation bill. It is totally voluntary. The fiscal note has a \$12,000 cost on it. He believes there will be a savings as time goes on and not a cost.

Proponents' Testimony:

Dave Puyear, MREA, said they are in favor of the bill. Notice it is voluntary. It maintains local control. There are a number of indirect costs associated with consolidation. Many people are not aware that there are indirect costs. People in the field are aware of it. Administrators and trustees across Montana are aware of it. This bill gives schools an additional incentive over the years to encourage the district to consider it and to acknowledge that there are indirect costs. A number of things MREA has researched in their membership show that schools are interested in this idea. This bill is fashioned in such a manner as was offered a number of years ago when there was school consolidation happening. Research shows MREA that interest in consolidation is again prevalent. There needs to be some recognition for the costs involved. If you look at the long term, there is a significant savings to the state and you can see that spelled out in the bill. It is voluntary. It honors the idea of local control and the local board making the decisions.

Bill Cooper, OPI, said his office is in favor of the bill.

Erik Burke, MEA-MFT, said they support the bill. It is one of those things that allows us to pay a little now and save money later. Consolidation is something that the districts in the state of Montana are interested in doing. Looking at the

formula, if you have a district of 10 students and a district of 20 students, which we do have around the state, there is about a \$20,000 to a \$30,000 disincentive under our current formula to consolidate. To project that idea over time, the district may say it can close a building and save that money, but wonder if it is working for them. This bill says the state will put some money to give you an incentive to do that now. Sure, in six years the money will be back down to its original level, but with that initial money up front, districts will take advantage of it more than they have in the past.

Bob Vogel, MSBA, said consolidation is an important consideration for schools districts across the state. Consolidation is one of the most difficult issues a school board or community can face. There are many difficult issues in any particular proposed consolidation to be worked through. This bill makes the financial consequences less of an obstacle if school districts find that all the other considerations can be worked out. Parents do and care about what is going to happen and it takes time to consolidate. This bill would address some financial problems. This bill does not force schools to consolidate, just tries to help those school districts which wish to do so.

Opponents' Testimony: None

Questions from Committee Members and Responses:

REPRESENTATIVE LEHMAN said on line 10, the bill has a comment about 20 miles. He wanted to know what 20 miles has to do with consolidation. **Connie Erickson** said that 20 miles is current law and occurs in other subsections of the law, but has nothing to do with consolidation.

REPRESENTATIVE MC KENNEY had a question for **Mr. Cooper**. How common or uncommon is it for a school district to consolidate? **Mr. Cooper** said it is fairly uncommon. Fifteen or twenty years ago there was a window and schools did consolidate. He only knows of one in recent years. Schools are consolidating services at the present time. **REPRESENTATIVE MC KENNEY** asked if this bill is brought before the committee because of declining enrollment. **Mr. Cooper** said that question should be asked of the sponsor. He thinks that declining enrollment and declining reimbursements would both be reasons for the bill. His organization favors the bill but did not request it.

REPRESENTATIVE PETERSON had a question for the **SPONSOR**. Do you know of schools in Montana that are contemplating consolidation? The **SPONSOR** said some school districts in his area are thinking about it and he assumes others districts across the state are

considering it also. There is a teacher shortage in the state and it might be a consideration.

REPRESENTATIVE JACKSON questioned the **SPONSOR**. Currently they have the same funding for three years and the bill extends it for another three years. Has the experience been that given the money for three years, it was not adequate to offset the business of consolidation? Is that the desire to go another three years? The **SPONSOR** said that he thinks the school district in three years might feel like it fell off a cliff. This gave the district time to settle into the program with funding, longer.

REPRESENTATIVE JACKSON had a question for **Mr. Cooper**. Is there anything in the works in terms of redoing the funding formula? **Mr. Cooper** said there are several efforts being made to look at the funding of schools and the formula. OPI has asked the Appropriations Committee for money to study the formula. They have not received an answer to their request. There is a lot of interest in looking at the formula. **REPRESENTATIVE JACKSON** asked **Mr. Cooper** if putting more money into the base and then having a smaller amount for each additional student would make it easier for schools to consolidate? **Mr. Cooper** said it was conjecture on his part, but his answer was no.

Closing by Sponsor:

REPRESENTATIVE WOLERY stated he has brought forth the bill because he is interested in consolidation. **Mr. Puyear**, representing MREA, represents about 130 Class B and C schools Consolidation is not narrowed down to Class B and C. The bill is here because of declining enrollment across the state. There are very few schools that have as many first graders coming into school as there are seniors graduating. The numbers catch up with us quickly. There may be schools over the state needing to consider consolidation. He didn't propose the bill just for Hill County. There may be some new funding formulas, but we are working with the present formula. He would hope that drafters of a new formula would honor something that was pledged in the old formula.

HEARING ON SB 214

Sponsor: SENATOR BILL TASH, SD 17, Dillon

Proponents: Dick Crofts, Commission of Higher Education,
Steve Hulbuet, Chancellor, Western Montana College of
University of Montana, Dillon
REPRESENTATIVE BARRETT, HD 34, Dillon
Arlene Hannawalt, MGS LP, Helena

Opponents: None

Opening Statement by Sponsor:

SENATOR BILL TASH, SD 17, Dillon, said the bill deals with the name change of what was Western Montana of the University of Montana. This change was from Western Montana College and done in 1992 as a result of some University of Montana name changes, which affected all the units of the university system. The bill will reduce the name to University of Montana Western. It says it all and says it in a little more direct way and certainly tells that it is part of the university system. Western Montana College is well known for its history and its placement service. Graduates have gone on to teaching careers in state and out of state in a lot of areas. Actually it is an extension of a name change even going back farther when it was known as the Normal School of Dillon. Today that is still how it is titled in the trust department, the enabling act that places money in the university system. That was the title for colleges of education. Today money derived from the Enabling Act of School Trust Lands is directed to the Normal School of Dillon.

Dick Crofts, Commissioner of Higher Education, is representing the Board of Regents. The bill has two provisions in it. The name change surfaced a few years ago and elicited a great deal of controversy. **Steve Hulbuet, Chancellor,** at the school reopened the issue, the discussions were open and forthcoming and prudent and reached a very positive conclusion. The second part of the bill would expand, in terms of Montana statute, the duties of the Montana Guaranteed Student Loan Program, which is a part of the office of the Commissioner of Higher Education. They would be permitted, according to Montana statutes, to do the same sorts of things they are now permitted to do according to federal statutes. This, too, is supported by the Board of Regents. The guaranteed student loan program will be permitted to expand into what are called outreach activities; that is working with students in K-12 to understand post-secondary options available to them and find ways to pay the costs of post-secondary education.

Steve Hulbuet, Chancellor at Western Montana College, said this piece of legislation, as presented, will make changes to the act with regard to the Montana university system in one particular area the name in many areas of Western Montana College of the University of Montana. As was indicated, there was some negative discussion about this some years ago, and the matter was revisited this past fall and we had a total review within the college community including contact with all their alums and throughout that review they had one negative comment by one

individual. On the surface it might seem rather simple in terms of what they are doing. They feel that they are going to make a change that reflects the structure within the Montana system, more specifically, of the institutions: Montana State University Bozeman, Billings, Northern. Therefore, his presentation of the name will be paralleled with the University of Montana Missoula, University of Montana Western. There are other reasons behind this request. Western is a small institution but in recent years it has begun to mature. They have been very successful in recent years, gaining federal grants and contracts. They have gone from about \$395,000 three years ago to an average of \$1.4 million worth of grants this year. It is very important to them to supplement incomes that they receive from state appropriations and from tuition and fees. Interestingly enough, for their faculty and staff who have sought grants they were often questioned about the nature of the institution. Is it a stand-alone institution? Is it a branch campus? Is it a two-year campus? Sometimes when agencies, especially federal agencies, are making decisions like this, they don't bother checking out information to determine that the campus is competitive in the grant area, but simply reject the grant proposal. They feel this will be one way to resolve that problem, more specifically. They believe it will be an attractive issue with regard to recruitment of faculty and staff. This parallels what has been going on in public higher education across this country for the past two decades and what occurred here within the Montana university system in the early 90's. They ask the support of the committee.

REPRESENTATIVE DEBBIE BARRETT, HD 34, Dillon, stated she supports **HB 214**. The bill is simple, it is sufficient, and as was just said by the Chancellor, many improvements are going on at Western and the name change would be one of them. She urged support for the bill.

Arlene Hannawalt, Director of Montana Guaranteed Student Loan Program, Helena, said they administer the Federal Family Education Loan Program for the Board of Regents of Higher Education. Prior to 1998, the Montana Guaranteed Student Loan Program's vocal authority on the local level was limited to activities that promoted or administered the Federal Family Education Loan Program. In the 1990 Re-authorization of the Higher Education Act of 1965 as amended, guarantee agency roles were expanded to promote higher education and to provide early awareness in K-12 on aspects of financial aid, planning for college and budgeting. In the last legislative session a joint senate resolution was passed to expand the information of planning and budgeting in K-12 programs. With this bill, they will be able to support that joint resolution. What they want to

do is ensure that students understand that college is possible. She said she was talking about all higher education and not just a four-year university program. Her office receives no state general funds to support their program and any activities that they engage in are supported by their current revenue stream. She asked that the committee support their role as defined by federal government and to amend the state statute governing the Montana Guaranteed Student Loan Program. The proposed change will give her office the same authority on the state level that they now have on the federal level.

Opponents: None

Questions from Committee Members and Responses:

REPRESENTATIVE JACOBSON asked **Commissioner Croft** why the present name of the college in Dillon was selected. **Commissioner Croft** said he could not tell the exact date, but in the late 1980's or early '90's the first decision that was made about restructuring involved an alliance or integration between Western Montana College and what was then the University of Montana with a single campus in Missoula. In 1994 the entire system was restructured into the two universities and the affiliation with Western Montana College which had been a part of the University of Montana, added to that was Montana Tech, now called Montana Tech of the University of Montana. Also in 1994, the Helena College of Technology was consolidated into the University of Montana. So now the University of Montana has four campuses.

REPRESENTATIVE JACOBSON asked, is the name change, in part, driven by the extended academics and services offered at the school? **Commissioner Croft** said yes, that is part of it. It's a recognition of a broader mission and some simplification to the name. There are several different things involved in wanting to change the name. The virtue of changing the name is that it simplifies it and still retains the Western College in the name because people wanted the historic and traditional identification.

Closing by Sponsor:

SENATOR TACH said part of the purpose of the name change in the early 1990's was to maintain a better affiliation with the University of Montana and for the purpose of transferring credit ability. This was recognized as an important factor in our university system and as an associate of the system, for Western to be able to transfer credits, which it satisfied. The importance of doing something that the community supports was also a reason for the bill. He applauds the support the officials sought and received from the community. If concurred,

he asked that **REPRESENTATIVE BARRETT** carry the bill to the house.

HEARING ON SB 182

Sponsor: SENATOR JOHN COBB, SD 25, Augusta

Proponents: Bob Vogel, MSBA

Opponents: None

Opening Statement by Sponsor:

SENATOR JOHN COBB, SD 25, Augusta, said the purpose of the bill was to make clear to school districts that the law allows them to share teachers, specialists, and superintendents. There are locations where this is being done now, but it is not very clear to school boards how the teachers, administrative services, or services related to purchasing can be used in an interlocal way. The bill clarifies to schools that they can share personnel and purchasing abilities. The bill makes clear that boards can share special education. Most areas do not want to form joint school boards and this bill does not request it.

Proponents' Testimony:

Bob Vogel, MSBA, said his organization appreciates the senator's efforts in looking at very difficult staffing issues in the schools, those of hiring teachers, specialist and administrators. The bill will provide options for school districts that are struggling with recruiting qualified individuals to fill these positions. The bill also helps school districts who are struggling with scarce resources to cooperate with other districts in providing needed school services. Please give school districts the ability to enter into interlocal cooperative agreements.

Opponents' Testimony: None

Questions from Committee Members and Responses:

REPRESENTATIVE OLSON questioned **Erik Burke**. How will this affect local negotiations if two schools are sharing a teacher and you have two different bargaining units: Is this negotiated outside either one of those bargaining agreements? **Mr. Burke** said his understanding is that part of the interlocal agreement would be actual bargaining language from one or the other districts, or, the employee would bargain with one district and be on a contract

with the other district that would be moved from the bargaining of the other district. Best he could tell the committee right now. **REPRESENTATIVE OLSON** asked if a teacher was hired under a cooperative agreement under one negotiated agreement, the other district cannot challenge it? The question was deferred to **Mr. Vogel**. He said the negotiations would take place with the individual and the individual would be under contract with two or more of the districts. The interlocal agreement would have one agreement with the teacher. **SENATOR COBB** was asked for his answer to that question. He said it could be handled as has been suggested. He believes one district would not hire a teacher the second district didn't want to work with. If a teacher is under one union agreement and works in the second school district, it will have to be worked out in their interlocal agreement. It is being done now with districts sharing superintendents. The union will protect their own people. **REPRESENTATIVE OLSON** had another question for the **SPONSOR**. This would not be a cooperative agreement handling the teacher; the teacher would be on staff at one of the other schools? The **SPONSOR** said it could be however the two schools want it to be. The teacher involved would have to agree. It is possible a bargaining unit could have something on how this is to be done, if schools do share a teacher. At present he knows of an instance where this is being done.

REPRESENTATIVE OLSON asked the **SPONSOR** if it would be at the discretion of the two boards and they could hire a teacher under one of the two districts or they could set up a cooperative agreement between the two of them. The **SPONSOR** said they have to set up the cooperative agreement just to hire the teacher and they have to get the teacher to agree also. If there is some kind of bargaining terms out there that the union has on how this is suppose to be set up that would come into play also. Basically they are not trying to change anything going there, they are just saying the agreement is possible.

REPRESENTATIVE MANGAN asked the **SPONSOR** if it is possible for school districts to contract for services without hiring? The **SPONSOR** deferred the question to **Mr. Vogel**. **Mr. Vogel** said it is possible for school districts to contract with individuals who are non certified. If they are members of the certified staff, those agreements are governed by their negotiated agreement.

REPRESENTATIVE MANGAN said he was thinking about the discussion they had in the past about audiologist and other specialists that are in short supply, particularly in rural Montana. Can those types of services be contracted, currently? **Mr. Vogel** said, yes they can. This bill actually goes a long way in clarifying what can be done and the individuals that can be involved. It happens now under cooperative agreements between school districts that share those relatively scarce resources of specialists.

REPRESENTATIVE MANGAN asked if school districts can currently

contract for those specialized services and pool their resources but not hire the individual. Would that mean the specialist is contracted for the service? **Mr. Vogel** said he thought the answer was no. They have to be governed under a negotiated agreement and usually an interlocal or cooperative agreement will reference, in fact, a negotiated agreement in one district or another or a series of districts. That would be reference in the interlocal or cooperative agreement. **REPRESENTATIVE MANGAN** asked if it is possible now for school to contract for services as an independent contractor and not as an employee? **Mr. Vogel** said that his understanding is that if that individual is a non-certified employee they can probably do that, if it isn't governed under a negotiated agreement by a bargain unit. **REPRESENTATIVE MANGAN** asked if that meant people like audiologists and counselors are considered non certified? Where do they fit into the agreements? **Mr. Vogel** deferred the question to **Mr. Cooper**. **Mr. Cooper** said the audiologist would fit in exactly where you are going. The school counselor as opposed to a school psychiatrist would have to be certified and the school psychiatrist would be non-certified. Schools can share contracted services for those kinds of a non-certified employees. **REPRESENTATIVE MANGAN** asked if those kinds of people are considered services in this bill. Are these people covered in this bill or is an amendment needed to speak to their services? **Mr. Cooper** said he believes they are covered. In **SENATOR COBB'S** opening remarks he said this bill is to clarify for law what many school districts are doing currently. Depending on the wishes of the **SPONSOR**, if that would add clarity to it, it could be amended. **REPRESENTATIVE MANGAN** asked the **SPONSOR** if there is another section of law where those other specialists can be contracted for without necessarily being employees of the district and, if not, would you consider looking at this bill to cover this? The **SPONSOR** said he believes that legal services should be asked that question and if they are not covered, then it should be added. He wants the bill clear, but he wants it to allow school districts to reach agreement without a lot of details.

REPRESENTATIVE LEHMAN had a question for **Mr. Cooper**. Would you suppose that **REPRESENTATIVE MANGAN** is asking about coops that are formed to which school districts subscribe, such as Big Sky Special Ed Coop, and there are curriculum coops, and school districts contract with these coops that are formed and the coops hire the specialists, to which he is referring, such as psychiatrists and audiologists? **Mr. Cooper** said that all the things **REPRESENTATIVE LEHMAN** said are true, but he thinks that **REPRESENTATIVE MANGAN** is going beyond those traditional coops. He is referring to more than the relationships that are going on at present. **REPRESENTATIVE LEHMAN** asked, are those kind of coops

covered under a statute or are they just something that school districts evolved into doing over the course of time? They have been going on for years and years. **Mr. Cooper** responded that it is in statute.

{Tape : 1; Side : B}

REPRESENTATIVE JACKSON had a question for **Mr. Cooper**. Is there anything to prevent school districts from sharing students? If there was an autistic student in one school with a teacher hired to teach him, and another school had an autistic student and the school there had hired a teacher for that student, could one district transport its autistic student to the other school so that you would have one teacher teaching two autistic students? **Mr. Cooper** said the short answer to the question is yes, they could, but it would need the agreement between both school districts and the parents involved. Yes, that can happen.

Closing by Sponsor:

SENATOR COBB said the committee can amend the bill if they see fit.

At this point in the meeting, **REPRESENTATIVE GAY ANN MASOLO** returned and assumed the duties of chairman.

EXECUTIVE ACTION ON SB 214

REPRESENTATIVE GALVIN-HALCRO moved that **SB 214 BE CONCURRED IN**.

Discussion: None

Motion/Vote: **REP. GALVIN-HALCRO** moved that **SB 214 BE CONCURRED IN**. Motion passed unanimously.

EXECUTIVE ACTION ON HB 488

REPRESENTATIVE WOLERY moved that **HB 488 DO PASS**.

Discussion:

REPRESENTATIVE ANDERSEN said she wanted to present a scenario to **REPRESENTATIVE WOLERY** in her district where she lives they have a lot of schools. Her home district has two districts, an elementary and a high school district. The elementary district is different because there is a one room elementary school five miles down the road. What would happen if those two elementary districts decided to consolidate, but maintain two separate

campuses? For three years they would get the basic entitlement and then they would get a reduction, but over a period of six years they would have an increase in the basic entitlement. At one time the two schools shared a kindergarten on one campus. It seemed to her that the bill would allow schools to do that and eventually they would get that reduction but, they could still maintain their two little campuses. Do you think that would happen? **REPRESENTATIVE WOLERY** said that may well happen and this bill would not prevent it from happening. If there are two separate schools, there is no increase to them, they would get what they are getting now.

REPRESENTATIVE LEHMAN said he wants to speak in favor of the bill. The bill allows schools to maintain their identity. There is a strong feeling in small communities that once you lose your school district, you lose your identity. Some schools go through miniature small steps that lead to consolidation. This gives a real incentive to school districts to consolidate.

REPRESENTATIVE ANDERSEN asked **REPRESENTATIVE LEHMAN** if the schools he had been involved with in consolidation had lost their identities. **REPRESENTATIVE LEHMAN** said they had not. Each school district has a school still in their district. For example, one community keeps the elementary school and the other community might keep the high school. It is a procedure that has to go slowly. It has to be a gradual process.

REPRESENTATIVE OLSON said this is a good bill. He doesn't see schools taking advantage of the bill. He believes the bill will cost the schools money with the entitlement.

REPRESENTATIVE MANGAN called for the question.

Motion/Vote: REP. WOLERY moved that HB 488 DO PASS. Motion carried unanimously.

EXECUTIVE ACTION ON HB 483

REPRESENTATIVE GALVIN-HALCRO moved that HB 483 DO PASS.

Discussion:

REPRESENTATIVE OLSON said he cannot support the bill. If they have trouble with the local school board, they should elect a new one.

The **CHAIR** said the **SPONSOR** brought some good points forward and maybe people expect too much from their schools but she believes that local control is best.

Motion/Vote: **REP. ANDERSEN** moved that **HB 483 BE TABLED**. Motion carried 15-3 with Jackson, Fritz and Walters voting no.

ADJOURNMENT

Adjournment: 4:40 P.M.

REP. GAY ANN MASOLO, Chairman

NINA ROATCH, Secretary

GM/NR

EXHIBIT (edh37aad)